

Children as Moral Subjects in Ethics of Migration

Jonathan Josefsson

Department of Thematic Studies – Child Studies, Linköping University, Sweden

Abstract

In 2011 almost 50% of the displaced persons around the world were children but still there is a lack of migration research about children's experiences, roles and perspectives (Special issue in *Journal of Ethnic and Migration Studies* Volume 37 Issue 8 2011). The aim of this paper is first and foremost to demonstrate how the leading theories and debates in the debate about ethics of migration lack a discussion of children as moral beings in their own right and that the debate is characterized by an adult discourse and traditional rooted assumptions about children. Secondly, the paper argues that the ethics of migration should acknowledge children as moral beings with agency, interests, rights and experiences in their own right. If children's rights are acknowledged as morally relevant and if ethical theory should play a relevant role in the future debate of migration and policymaking then it is crucial to take a critical view on the construction of children as moral beings. Thirdly, the paper examines what the implications of future research in ethics of migration can be, if children are acknowledged as moral subjects in their own right.

In migration research children are traditionally represented as "passive, needy and different" (Ibid p. 1159). When children are in focus it is often in a fragmented fashion, with a perspective on children as future adults and as passive members of the family. However we can see an increased interest in challenging the traditional rooted assumptions about children in the latest years in the field of migration research as well as in some fields of philosophy. We have not yet seen a similar development in the ethics of migration. This paper analyses some of the leading contributions in the debate about ethics of migration represented by particularly Joseph Carens and David Miller that represents arguments for and against open and restricted borders. The analysis demonstrates how children to a great extent is invisible and that their roles, interests and experiences to a great extent have been left out of the debate. When children are mentioned it is in a fragmented fashion, in an adult-centric discourse, portraying children as reduced to family members and as vulnerable with a special need of protection and care. The paper suggests that more expanded conceptions of children will lead to new and important ethical questions. It concludes that many theoretical questions remain unanswered about the moral status of children in the ethical debate about migration and that the case of children point at gaps and weaknesses in some of the dominating theories about borders. A way to fill these gaps is to a greater extent take into account existing empirical research on children in migration and a growing philosophical research interest in children as moral subjects. The recognition of children as moral beings in their own right is put forward as one way of making ethical theory more applicable and relevant to policymaking and research of migration in the future.

Keywords: Ethics of migration, Moral status of children, Children rights, Joseph Carens, David Miller, Children as moral subjects

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Introduction

In 2011 Approximately 42 million persons around the world were forcibly displaced according UNHCR, of which almost 50 % were children¹. Even though children constitute a significant part of the forcible displaced this paper demonstrates that little, if any, systematic philosophical or ethical analysis has been done with focus on children's moral status within the debate about ethics of migration² which has been taking place in international scientific journals the last 20 years. The analysis make evident that in the debate children are to a great extent invisible and when children are portrayed it is made within a discourse of children as particular vulnerable, in a special need of protection and as a subordinated part of the family. Recent migration research and philosophical research in other fields, do however question "conventional" views of children and highlight a more differentiated and contextualized conceptualizations of children where they are as well acknowledged with capacities, agency and as active participants in the migration process. The question is then; in what way will a rethinking of conceptions about children also have consequences for the moral status of children in ethical theories and arguments about migration?

The aim of this paper is to discuss the moral status of children within the debate about ethics of migration. In line with what Joseph Carens calls a Contextual Approach to Political Theory³, I will discuss how children as a category and as moral subjects do point at existing theoretical gaps in need of further ethical inquiry. The following research questions have been guiding my work; a) in what way have children been portrayed and conceptualized as moral beings within the debate?; b) how can recent research of migration and philosophy contribute to new conceptualizations and rethinking of children as moral subjects in the debate?; c) if taking children as distinct moral subjects in their own right as the focus of inquiry what ethical questions can be raised and what weaknesses can be identified in the theoretical perspectives that has been influential in the debate?

In the first part, the Introduction, I outline the aim, questions and the motivation of the paper. I present previous research on how conceptions of children and childhood have been payed an increased interest in philosophy and migration research and how this research motivate a further investigation of the moral status of children in the ethical debate about migration. In the second part I demonstrate how the debate about ethics of migration so far has conceptualized children in a narrow and traditional way by analyzing some of the influential contributions made by Joseph Carens, David Miller and some associated debaters. In the third part I discuss how empirical migration research and philosophical research presents important arguments to rethink conceptions of children in the debate and how this leads to new theoretical questions and does point at existing gaps in ethical theory about migration. In the paper I present some examples about what type of theoretical questions that will be important to keep on investigate. In the conclusion I state that a critical examination of the moral status of children regarding rights, interests and definitions of childhood have not yet been developed in the ethics

¹ Forcibly displaced people is according UNHCR estimated to 42.5 million 2011. On average, 47 per cent of all persons of concern were children under the age of 18, including 13 per cent. Among Refugees 46% were children and among asylum-seekers 34%. (<http://www.unhcr.org/4fd6f87f9.html> p. 34)

² The debate about ethics of migration have been given different names such as "ethics of immigration" or "The Open borders debate of Immigration" In this paper I refer to the debate as it is described by Baader 2005, Seglow 2005, Wilcox 2010 and the specific material used in this study consist of in total 32 articles published in international scientific journals with a particular focus on the writings of Joseph Carens and David Miller. See more about method and selection principles in chapter next section and note 6 and 7.

³ *A Contextual Approach to Political Theory* (Carens 2004). This paper is driven by the assumption that a plausible ethical theory also need to have a component of contextualization to the problem it aims at having something to say about. One way of doing this is to use a child perspective in a *search for cases* that are especially challenging to the theorist's own theoretical position and to use the category of children as a point of departure *to gain a critical perspective on theory and point at existing gaps*.

of migration and thus call for further research in this topic. However, before getting to the analysis of the debate and future questions of research I will in the following give a brief background to how conceptions about children and childhood has been discussed within childhood research the last years.

Conceptions of children and childhood in previous research

Conceptions about children and childhood in society have been discussed the last 30 years out of various disciplinary perspectives such as sociology, history, psychology, anthropology and philosophy (E.g. James, Jenks and Prout 1998, Archard and Mcleod 2002, Kehily 2008, Wyness 2012). A common feature of this research is to put focus on children as subjects in their own right where conceptions of children and childhood is studied in different social contexts and historical processes. A broad range of empirical research has been carried out studying children's experiences and the active construction of their own social lives. Other empirical studies have been focusing on children and childhood through policy and at a societal macro level. During this emergence of childhood research one can also note that several different theoretical perspectives have been influential about how we can understand the lives of children, i.e. social constructionism, structural and post-structural approaches, new materialism etc.(Wyness 2012).

In modern philosophy there has been a growing interest of a critical discussion about the moral and political status of children in relation to philosophical theories and traditions (E.g. Archard and Mcleod 2002, Brennan and Noggle 2007, Walls 2010). In the anthology, *The Moral and Political Status of Children*, Archard and Macleod(2002) have gathered thirteen distinguished moral and political philosophers giving different contributions on children's rights, parental rights and duties, the family and justice and civic education. Archard and Macleod recognizes that an increased interest in the moral and political status of children has been propelled by at the one hand scholars identifying gaps in recent theory but at the other hand by a more general societal, legal and political development. They point for example at a changing character of families in western nations, an increased awareness about the problems faced by children in terms of poverty, abuse and a global agenda that recognizes children as right-holders following the Convention on the Rights of the Child. Archard and Macleod identify two different and dominating ideas of children in the tradition of moral and political philosophy. The *first* is that children are the property of their parents or an extension of the parent which can be found in the thoughts of Aristotle or by more modern philosophers as the libertarians Jan Narveson or Robert Nozick (Archard and Macleod 2002 p. 1). The *second* idea is that children are incomplete adults and not yet possessors of the powers and capacities that adults do have and that characterize human beings. Children are seen as unfinished humans and as "becomings" rather than "beings" in themselves, a view find by e.g. Aristotle, Locke, Hobbes or Grotius (Ibid p. 3).

In some of the most influential modern political theories of justice and rights, put forward by e.g. John Rawls, Ronald Dworkin, Robert Nozick or Michael Walzer, children have been treated only in the margin or as exceptions. A fundamental assumption of the dominant liberal theories is that the moral agents, covenants or right-bearers, are to be regarded as autonomous, rational and independent individuals. Since the traditional view on children portray them as lacking rational capacities, depending on others and as not fully human, children has not been taking into consideration as moral actors or subjects (Ibid p. 3 ff). Another traditional assumption in modern philosophy is that the interests of the child is consistent with the family or parents and that the parents (or corresponding guardians) are the ones who legitimately should and can convey the interest of the child.

In recent migration research increasing interest has been paid to the roles and experiences of children in migration.⁴ This due to a lack of data about children and the domination of traditionally rooted assumptions about children, childhood and family (White et. al 2011). Children are traditionally represented as “passive, needy and different”(p. 1159) where the perspectives of children have been overshadowed by an adult discourse on for example decision-making and experience during the migration process(see Spicer 2008 in White et al p. 1160). Recent migration research taking a child perspective does instead emphasize a more differentiated and contextualized understanding of children in migration. Complementary to the traditional assumptions, children are also regarded as active participants, autonomous and individuals with capacities in the migration process.

To conclude, conceptions about children and childhood in society have been paid increased interest the last 30 years in different disciplines and areas of research. The focus on children as subjects in their own right is however a rather new phenomena in philosophy as well as in migration research that previously have been dominated by adult discourses and portraying children as “passive, needy and different”. The emerging interest of children in philosophy and migration research have emphasized a more differentiated and contextualized conception of children as also having agency, being autonomous and playing a more active role in relation to the family and the state. By rethinking conceptions about children and put children as moral subjects in their own right it opens up possibilities to begin asking questions about what consequences this will have for the moral status of children in the ethical debate about migration. In the following will move on to analyze some of the most influential contributions to the ethical debate about migration to illustrate how the debate still is considering children’s moral status in a rather traditional and limited way. My point of departure is in previous childhood research, as referred above, and my interest is to problematize conceptions of children and childhood in the existing debate.

Children in the debate about ethics of migration

The ethical debate about migration have the last years been paying attention mainly to questions about border controls of nation states and individual rights to membership and admissions (E.g. Baader 2005, Seglow 2005, Wilcox 2010, Wellman and Cole 2011). In her research overview Shelley Wilcox states that philosophers historically have been arguing for the moral right of liberal states to control immigration although there might be some specific exceptions from this right (Wilcox 2009). One of the famous defenders for this traditional position is Michael Walzer. In his seminal work “Spheres of justice” (1984) he argues for a kind of communitarianism where members have a right to form political communities. As members of a political community they also need to have the possibility by themselves to make a decision about who is to become a member and who is not, in accordance with their understanding of the ”nature of the political community”(Wilcox 2009 p. 814). Citizens must be able to regulate immigration in order to protect their freedom of association, welfare and culture. An analogy can here be done between the nation-state and other types of communities such as clubs, associations and families and the possibility to include or exclude the one you want to. David Miller is another recent proponent for the right of nations to control their borders and restrict immigration (Miller e.g 1988, 1993, 1997, 2008). He emphasizes nationality and that individuals have a basic right to control their culture and to form it in accordance with their own wishes. Miller means that one could possibly argue for a *basic right* to free movement across borders if this is the only alternative to avoid famine and persecution. There could also

⁴ This interest is particular evident in the special issues from the *Journal of Ethnic and Migration studies*, *Transnational Migration and the Study of Children* (2012), and *Transnational Migration and Childhood*(2011) and in the special issue in *Childhood: Childhood and migration: mobilities, homes and belongings* (2010)

be a *bare interest* by individuals to immigrate to other states but this can never be seen as a basic right that overrules the right of citizens to control their cultural and political interests within the national state.

The conventional assumption has however been challenged the last years by liberals in two lines of arguments according Wilcox. From one direction the restrictive approach to open borders in liberal democracies have been criticized to be inconsistent with basic liberal egalitarian ideals of freedom, equal opportunity and moral equality. Joseph Carens is one of the most famous defenders of this position and have been advocating different liberal arguments for open borders and mean that a liberal acknowledgment of freedom as a basic human right also need to imply a freedom to move across national borders (E.g. Carens 1987, 1996, 2004). Liberals maintain individual rights of freedom to fulfill their preferences and desires as long as they do not intrude on others legitimate claims. In the same way as freedom of movement within the borders of the national state is considered a basic human right, the freedom of movement across borders ought to be considered in the same way. By the right of freedom of movement across borders follows also a *prima facie*⁵ obligation of national state to hold with open borders. From another direction the restrictive position on open borders have been criticized by a global justice perspective (E.g. Carens 1987 or Risse 2008) where rich liberal democracies are considered to have moral obligation to admit immigrants as a response to global injustices such as poverty and violations of human rights. These arguments stems out of the idea about the equal value and equal opportunity of all human beings. Rights and social positions ought then to be distributed out of abilities and talents and not out of morally arbitrary criteria's such as national citizenship, ethnic affiliation, gender or similar. National citizenship is considered arbitrary since one does not choose your place of birth more than one choose for example sex and should therefore not be a basis to distribute rights or social positions. If national states aim to avoid this kind of discrimination than they also ought to provide with open borders.

With point of departure in the research reviews of Bader 2005, Seglow 2005 and Wilcox 2010 I have recognized Joseph Carens and David Miller as two important and active contributors to the debate and as representing arguments for and against open respectively restricted borders. I have identified their contributions in some distinguished international scientific journals⁶ of politics, ethics, and philosophy and then moved on to recognize other contributions in these journals which can be seen as associated with the contributions of Carens and Miller⁷. A reason for concentrating on articles published in international journals is that the analyzed contributions could be, to some extent considered as a reflection of the ethical scientific debate in the sense that editors and peer-reviewers have been a part of the process in another way than the case with monographs and anthologies. A future and more in depth examination of the moral status of children in ethics of migration would likely to also bring in monographs and anthologies as valuable sources. The general question used in the analysis of the debate is; in what way have children been portrayed and conceptualized as moral beings?

Children as invisible and vulnerable in the debate

In this section the focus will be on how children have been conceptualized so far in the ethical debate about migration. I will demonstrate how children to a great extent have been left

⁵ A *Prima facie* ("at first sight" lat.) duty can be understood as a duty one has an obligation to follow as far as no other duty overrules it.

⁶ The Journal used in the study: *Ethics, The Review of Politics, Ethical theory and Moral practice*, *Ethics and international Affairs*, *Ethics and Global Politics*, *Journal of Applied Philosophy*

⁷ With associated articles I specifically refer to articles that somehow was posed as responses to Carens and Millers contributions or contributions that Carens and Miller was responding to. A complete list of the contributions that have been analyzed is presented under references/appendix.

out of the debate and when children are mentioned they are portrayed as vulnerable, dependent, as citizens in becoming and in special need of protection.

A first thing that appears when reading the articles out of a child perspective is the fact that in many cases children are not mentioned at all (E.g. Andersson 2008, Carens 1999, Laegard 2007, Meilaender 1999, Gibney 1996). In this sense the invisibility of children is rather striking. Children are in some of the articles however mentioned but when they are mentioned it is mainly in the passing and without further examination of children as category or as distinct subjects of interest. In these cases children are only mentioned a few times in the text or in a footnote (e.g. Miller 1998, 2004 p. 259, 2008 p. 196, 2011 p. 168-170, Boswell 2008, Carens 1996, Weiner 1996). In some other cases children are mentioned in the passing as examples but without paying interest to their moral status (e.g. Holtug 2011, Miller 2011, Weiner 1996). One illustration of this is the debate between Nils Holtug and David Miller in the *Journal of Ethics and Global Politics* where they discuss children as an example to why we intuitively would pay more moral significance to a child of our own family, community or nation in comparison to an anonymous child outside our own family, community or nation. This discussion does not say anything specific or explicit about children's moral status, more than using children as an example for the specific moral significance of people living in closer relation to ourselves. This type of example could at first sight seem to be harmless but put in a broader context it is also symptomatic for a conception of children as something that we all seem to agree upon be of special value. If Miller and Holtug by contrast had used a related adult as an example it would likely not had made the same strong appeal for a moral significance.

In a few cases children as a category is brought up as a topic of specific concern (Carens 2008 and Hovdals 2008). Joseph Carens (2008) devotes a section to children's rights in his article *The Right of Irregular Migrants*:

Within the general category of "irregular migrants," children constitute a group with special claims. For one thing, they are a particularly vulnerable subcategory of human beings, one standing in need of special protection, as is reflected, for example, in the existence of a special international covenant on the Rights of the Child. For another, they are not responsible for their unauthorized presence within the state, since it is their parents who have brought them in. (Carens 2008, *Ethics and International Affairs*, 22, 2, p. 168)

In the quotation of Carens, children are explicitly described as particularly vulnerable and in need of special protection. There are no further moral arguments or explanations presented about why we are supposed to agree with his assumption more than that it is stated in the International Convention on the Rights of the Child. The CRC ought however not be seen as the outcome of an ethical theory but instead as a political document resulting from negotiations and compromises between states (Holzscheiter 2011). The CRC can be seen as a development from the moral language of the Universal Declaration of Human Rights which is somehow pointed at adult men and women. Human rights theorists seem though to have neglected the case about children and in what way the rights stated in the CRC theoretically can be applied to children (Wall 2010). Another example of portraying children as vulnerable in a more implicit way is when Miller (2011) and Holtug (2011) discuss the previously mentioned example about children in need of help. Even though the discussion does not contain any explicit statement about that children ought to be looked upon as particularly vulnerable the fact that they discuss children in terms of special moral significance and in need of help becomes one among other indications of a strong discourse about children's vulnerability.

Moan Marit Hovdals response to Joseph Carens in the same journal is another of few examples where children are discussed as a specific object of interest.

The normative purpose of children's right to free public education, however, does not readily support the claim that migrant children in an irregular situation have a moral right to free public education. Carens emphasizes that the legal right of children to free public education

carries the value that society places on the well-being of children. The right to a free public education is meant, among other things, *to contribute to this good in the present*, and also *to enable children to function later in life*. One may reasonably claim that it follows from this that irregular children, too, have a moral claim to free public education. However, *the right of children to education is also meant to prepare them as citizens of the state of which they are members*. This creates a problem, because irregular migrants are not meant to remain in the state's territory. In principle, therefore, one cannot reason that it follows from the right's normative purpose that the children of irregular migrants have a moral right to a free public education, which Carens also recognizes. (Hovdal 2008, p. 208)

Hovdal question Carens argumentation of irregular migrant children having a moral right of free public education. She argues that the right to free education should be restricted in the case of irregular immigrant children since they are not meant to stay in the state's territory and therefore will not fulfill the normative purpose of education, namely to become good citizens. It is in this case interesting to see that children are discussed in relation to education, a perspective that fits well into a traditional philosophical view on children's moral status based on how they will contribute to the society as future citizens. According Hovdal the value of children's education lies not in a right to education as a basic universal human right, independently citizenship, but instead the value of education is related to children as becoming citizens. In this way she does not emphasize children to have some kind of special need and claim to rights as Carens does. Instead children's moral status is intimately connected to their contribution to the society and their citizenship.

Another conception of children that is evident in the quotation from Carens (2008 p. 168) is that children are regarded as a subordinated part of the family in terms of interests, decision-making and responsibilities. Carens states for instance that irregular migrant children are not "responsible for their unauthorized presence within the state" (2008 p. 168). This indicates that children not are seen as being a part of the decision-making within the family and that the parents are morally responsible for the children and seem to be regarded to also make plausible judgments about the best interest of the child. Even though none of the other contributions, in the same way as Carens, explicitly discusses children's subordination in the family, children is commonly discussed in close relation to concepts about family (Miller 1988, Miller 2011, Holtug 2011) which can be seen as another example of a discourse where children to a great extent is discussed as family members.

To sum up, children have been rather invisible in ethics of migration and when they are mentioned they are portrayed as vulnerable, in need of special protection, as citizens in becoming and whose interests are subordinated to their parents. These kind of traditional perspectives on children and childhood in the ethical debate are not unique but instead something that also to a large extent have been characterizing migration research in general during the last decades (White et al 2010, 2011, Gardner et al. 2012.)⁸ as well as classical and modern philosophy (Archard and Macleod 2002 p.1 ff) One might argue that the invisibility and marginalization of children in the debate depend on the fact that the discussion of ethical principles and theories do not leave much space for taking all specific categories, minorities or marginalized groups such as children into account. It is however important to remember that the group of children not is only a small minority but constituting a significant part of people in migration and if ethical theories cannot discuss relevant arguments about children then these weaknesses need to be pointed at and the relevance of the theories need to be questioned.⁹

⁸ Read more about different accounts on children's perspectives and criticism of adult-centric discourse in migration research as referred in earlier note; *Journal of Ethnic and Migration studies*, Transnational Migration and the Study of Children (2012), and *Transnational Migration and Childhood*(2011) and in the special issue in *Childhood: Childhood and migration: mobilities, homes and belongings*(2010)

⁹ This argument is in line with Joseph Carens Contextual Approach to Political Theory (2004) described briefly in footnote 3. The argument do not imply any normative claim weather children as moral beings ought to be

Rethinking children as moral subjects in ethics of migration

I have so far identified childhood research that in different ways have started to question traditional conceptions about children. I have also demonstrated how the ethical debate about migration conceptualizes children in a rather narrow and traditional way. If we now approach the question about children as moral subjects in line with a more complex and expanded conceptualization of children, what will then happen with the ethical debate about migration and borders? In this part I will demonstrate how recent migration and philosophy research offer strong arguments to a more expanded conceptualization of children and also acknowledge children as entitled with agency, autonomy and capacities. When putting children as moral subject in their own right I argue that it leads to new theoretical questions and a need for rethinking children's moral status in ethical theory. This is done in a similar way as recent philosophical research have begun to challenge conventional conceptions of children in ethical theory and how this relates to the moral status of children regarding rights, interests, and justice in relation to family and the state (E.g. Archard And Macleod 2002, Archard 2003, Brennan and Noggle 2007, Wall 2010).

Empirical challenges to conventional conceptions about children in the debate

One traditional assumption about children in need of rethinking is the conception of children as vulnerable and in special need of protection (E.g. found in Carens 2008 p. 168, Miller 2011 p. 168) Children's vulnerability and special need of protection is demonstrated in the debate in various ways but mainly it is evident in the children's right discourse where the assumption seems to be that it is the "adult world" that has the responsibility and competence to secure the basic needs of children, that in turn do not seem to have that competence (Carens 2008 p. 168). In contrast Nick Mai's (2011) research on migrant male minors and young adults selling sex in the European Union draws on in-depth ethnographic research and puts forward children's embodied forms of resistance to restrictions of their mobility and demonstrates agency as opposing to a conventional view on the sex-selling child as a victim. Lotta Haikkola (2011) explores children's active roles and agency in carving out their own transnational ties and thus challenging a perspective on them as vulnerable. In a qualitative interview study Aoife O'Higgins (2012) demonstrates how young refugees in UK deliberately conform to expectations from social workers about vulnerability as a way to benefit from greater support and that the social workers may fail to consider young refugees abilities. The experiences of children make evident that vulnerability and agency is fluid and dynamic in need for contextualization and that we cannot not only see children as vulnerable and passive in need of help but also as active agents that make resistance to the system in different ways. Oude (2008) and Raghallaigh, M. and R. Gilligan (2010) have been doing research on unaccompanied minors and discuss these young persons as being both vulnerable in need of protection as well as competent agents in the migration process

Another assumption about children is the one that regard children as subordinated to their parents decision-making. Carens exemplifies this by stating that "For another, they are not responsible for their unauthorized presence within the state, since it is their parents who have brought them in (Carens 2008, p. 168). But an acknowledgment of children's agency and autonomy do put this assumption at odds. Contrary to Carens perspective Haikkola (2011), Huthins (2011) and Ni Laoire (2011) all in different ways state that children in practice can play an active role in family migration and to a great extent do contribute to the decision making in the family. Hutchins focuses for example on the dynamics of relationships between parents

seen as different or similar to adults. It points only to the fact that a discussion about the moral status of children to a great extent is left out of the debate.

and children in family migration from the UK to Australia, to illustrate how children's best interests influence the degree of children's involvement in migration decision-making.

Children as moral subjects and ethical implications

One can argue that how children are to be conceptualized to some extent is a matter of empirical findings about e.g. the moral development of children or how children's abilities and capacities can be understood in situated and contextualized practices. On the other hand there might also be philosophical reasons behind how we think that children ought to be conceptualized in order to put forward a normative argument or ethical theory. As the empirical research demonstrates there are good reasons to expand our conceptions about children to not only see children as particularly vulnerable and in special need but also as having agency, autonomy and capacities. If we re-conceptualize children and take them seriously as moral subject in their own right how can we then rethink the moral status of the child in ethics of migration? My argument is that a rethinking of the moral status of children can in a number of ways have interesting and crucial implications for the ethical discussions about borders and migration. I will here only mention a few examples regarding children's rights, interests and the definition of children and childhood.

A first way of rethinking the moral status of children is to take serious the theoretical discussion about children's rights with point of departure in a more complex conception of children. What kind of rights can be entitled to children and on what moral grounds? A critical perspective of the rights of the child has been a topic of concern for several philosophers the last years. James Griffin does for example pose the question whether children at all have rights (2002, 2008)? Out of this perspective the vulnerability and incapacities of children might point at urgent moral claims from children but at the same time disqualify them as right-bearers. According the so called choice-theory of rights, the rights are grounded in the relation between personhood and rights where autonomy and agency are fundamental criteria's for also being a bearer of rights, which then might exclude children or infants.(Griffin 2002, 2008, Brennan 2002) According what can be called the interest-theory of rights, the primary focus is the protection of rights based on fundamental interest, and not depending on the capacities or autonomy of children (Brighouse 2002, Brennan 2002) Since children can be claimed to have fundamental interests of protection one can for instance argue that children should be entitled to different welfare rights secured by the state such food, housing, health and education. The interests to welfare rights can however not be guided by the choices of the child, but instead by their parents or corresponding guardian that have capacities to make autonomous and rational choices about what is in the interest of the child. Samantha Brennan (2002) suggests that the two theoretical traditions of interest and choice-based theories are possible to combine. She defends a gradualist model and emphasize that the grounds for attributing children rights need to change in accordance with the autonomy that children develop.

Having in mind the conception of children as vulnerable and in special need it seems that an interest-theory of rights is the account that for example Carens and Miller, is close to, even though it is not spelled out explicitly. The emphasis is on children's right to protection, education, welfare and so on. But if acknowledging children's agency and autonomy it is possible to construct plausible arguments for children also to have more expanded rights based on their choices as children are developing their capacities. What consequences would this kind of acknowledgment of children's choices have for how rights are formulated in ethical theory and in migration policy?

A second way of rethinking the moral status of children regards the question about children's interests in relation to the family and the state in the migration process? Several assumptions are made in the debate regarding children's interests but little is said about the moral grounds. For example, in what way do children's interest coincide with those of the

family? If not, what right do children have to fulfill interests in opposition to the family? Archard and Macleod argues that interest claims of children, and the entitlements to resources and opportunities cannot simply be subsumed under the claims of their parents or families (Archard and Macleod 2002) On a daily bases migration authorities and courts refer to the CRC principle about best interest of the child when making decisions about who is aloud and who is not allowed to get into the national state. The meaning and application of the best interest of the child can then be absolutely decisive for a decision about admission and a way of controlling the borders of the national state. How can we then understand the content of the best interest of the child, who has the ability to make a judgment of that interpretation, what weight should a principle about the best interest of a child have in relation to other admission criteria and a national interest of controlling borders, and what rights do children have to get their voices heard in these matters?

Finally, an ethical theory that have the ambition to say something about, justice, rights and interests of children in migration also need to pose the question of what a child is and who is to be regarded as a child. So far the ethical debate about borders seems to have neglected the question about the limits of childhood even though it will have major implications for how we look upon for example duties, rights, interests, justice in relation to the subjects we discuss. The definition of childhood seem mostly to conform with the UN age criteria for defining who is to be regarded as a child and who is not. There is however plausible arguments presented about the moral irrelevance of using age as a primary criteria for deciding children's entitlement to rights, justice and interests (Archard and Macleod 2002, Archard 2003, O Brennan 2002). Even though age might be a politically and by law doable criteria to use, an ethical theory has to demonstrate why and in what way a certain age should be the determinant for the moral status of children. As suggested above other aspects of childhood and children such as vulnerability, dependence, agency, autonomy, capacities, interests and so on seem to be necessary to also take into account as crucial departures to discuss the moral status of children.

There is a broad range of urgent political and moral issues in migration policy regarding children's experiences, rights and interests where the dominating theories and arguments of liberal egalitarianism, liberal nationalism and communitarianism do not seem to offer enough theoretical tools sensible to the moral status of children. For example; How do we consider the rights and interests of the increasing number of unaccompanied minors from Afghanistan or Somalia coming to Europe? Many of them are adolescents and should we regard them as vulnerable children in need of special protection or/and as individuals with agency and capacities, and how does our conceptualization of unaccompanied minors play along with the rights and interests entitled to them? In cases of family-reunifications, how should the best interest of the child be regarded, and what weight can be given to the child's best interest in decisions of migration courts around the world? What interests can be entitled to children and who has the authority and possibility to give voice to the children's perspectives?

Conclusions

To conclude, many theoretical questions remain unanswered about the moral status of children in the ethics of migration. If ethical theory is to play a relevant role in research and policy about migration, there is a need of further development of theoretical concepts, theories and arguments in order to see children as moral beings in their own right. In this paper I have demonstrated gaps and weaknesses in existing ethical theory about migration but the questions I have raised are also to be seen as starting points in need of further examination. One way to develop ethical theory and point at the existing gaps is to a greater extent consider empirical research on migration to find cases regarding children in migration that calls for ethical deliberation and that challenge the present "adult-centric" discourse in ethics of migration. Empirical research and new conceptualization of children could be seen as one way of

responding to a present gap between ideal political theory and the politics, policy and practice of migration today that several philosophers have been paying increased attention to (Bader 2005, Benhabib 2004, Carens 1996).

A second way to develop ethical theory about migration is to bring in the already growing philosophical discussion about children's moral status, such as demonstrated in this paper. A third way to challenge ethical theory would be to broaden the questions in focus of the debate to also involve issues regarding children, topics such as children and admissions, decision-making within families, how policy and law acts on children's best interests, rights and interests of unaccompanied minors and so on.

One of the crucial points in this paper has been to argue that how we think about and conceptualize children will also inevitably have consequences for the moral status of children within ethical theory and in contexts of migration. When taking into account more expanded conceptions of children as also having agency, being autonomous and as active participants in migration it poses new theoretical questions and a need for rethinking children's moral status. One promising theoretical account to develop concepts about children's rights and interests in a migration context could be Samantha Brennan's "gradualist model", since it seems sensible to a conceptualization of children as both vulnerable and as having agency. A strong right discourse on children's moral status in ethics of migration might however have other constraints and a broad approach to different ethical accounts should be of interest in a future agenda for developing theoretical tools sensitive to experiences, rights and interests of children. A fundamental task will be to try and challenge the dominating arguments in the debate for and against open and closed borders in light of children and childhood. Do children, in the same way as adults, have a basic right to freedom of movement and on what grounds? In what way do children have a right of self-determination and being part of a national culture and politics? What other arguments and ethical issues regarding migration could possibly be emphasized with point of departure in childhood? My conclusion is that a development of theoretical concepts about children as moral subjects in their own right as well as empirical and policy oriented research on children in migration would be crucial steps towards an ethics of migration that also apply to children.

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Appendix 1

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